

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

- - -

IN RE: AUTOMOTIVE PARTS
ANTITRUST LITIGATION

Case No. 12-02311

MDL NO. 2311

Hon. Marianne O. Battani

STATUS CONFERENCE

BEFORE THE HONORABLE MARIANNE O. BATTANI
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
Friday, September 14, 2012

APPEARANCES:

For the WILLIAM G. CALDES
Direct Purchaser **SPECTOR, ROSEMAN, KODROFF & WILLIS, P.C.**
Plaintiffs: 1818 Market Street, Suite 2500
Philadelphia, PA 19103
(215) 496-0300

MANUEL J. DOMINGUEZ
COHEN MILSTEIN
3507 Kyoto Gardens Drive, Suite 200
Palm Beach Gardens, FL 33410
(561) 578-6850

DAVID H. FINK
FINK + ASSOCIATES LAW
100 West Long Lake Road, Suite 111
Bloomfield Hills, MI 48304
(248) 971-2500

GREGORY P. HANSEL
**PRETI, FLAHERTY, BELIVEAU &
PACHIOS, L.L.P.**
One City Center
Portland, ME 04112
(207) 791-3000

1 Appearances:

2 For the
3 Direct Purchaser
4 Plaintiffs:

GREGORY P. HANSEL
**PRETI, FLAHERTY, BELIVEAU &
PACHIOS, L.L.P.**
One City Center
Portland, ME 04112
(207) 791-3000

BRENT W. JOHNSON
COHEN MILSTEIN
1100 New York Avenue NW, Suite 500 West
Washington, D.C. 20005
(202) 408-4600

STEVEN A. KANNER
FREED, KANNER, LONDON & MILLEN, L.L.C.
2201 Waukegan Road, Suite 130
Bannockburn, IL 60015
(224) 632-4502

JOSEPH C. KOHN
KOHN, SWIFT & GRAF, P.C.
One South Broad Street, Suite 2100
Philadelphia, PA 19107
(215) 238-1700

WILLIAM H. LONDON
FREED, KANNER, LONDON & MILLEN, L.L.C.
2201 Waukegan Road, Suite 130
Bannockburn, IL 60015
(224) 632-4504

MELISSA H. MAXMAN
COZEN O'CONNOR
1627 I Street NW, Suite 1100
Washington, D.C. 20006
(202) 912-4800

STEVEN O. SIDENER
GOLD, BENNET, CERA & SIDENER, L.L.P.
595 Market Street, Suite 2300
San Francisco, CA 94105
(415) 777-2230

EUGENE A. SPECTOR
SPECTOR, ROSEMAN, KODROFF & WILLIS, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103
(215) 496-0300

1 Appearances:

2 For the
3 Direct Purchaser
4 Plaintiffs:

JASON J. THOMPSON
SOMMERS SCHWARTZ, P.C.
2000 Town Center, Suite 900
Southfield, MI 48075
(248) 355-0300

5
6 RANDALL B. WEILL
PRETI, FLAHERTY, BELIVEAU &
PACHIOS, L.L.P.
One City Center
Portland, ME 04112
(207) 791-3000

8
9 For the
10 End-Payor
11 Plaintiffs:

WARREN T. BURNS
SUSMAN GODFREY, L.L.P.
901 Main Street, Suite 5100
Dallas, TX 75202
(214) 754-1928

12 LORENZO B. CELLINI
TYCKO & ZAVEREEI, L.L.P.
2000 L Street NW, Suite 808
Washington, D.C. 20036
(202) 973-0900

14 FRANK C. DAMRELL
COTCHETT, PITRE & MCCARTHY, L.L.P.
840 Malcolm Road
Burlingame, CA 94010
(650) 697-6000

17 LAUREN E. MEKLIR
THE MILLER LAW FIRM, P.C.
950 West University Drive, Suite 300
Rochester, MI 48307
(248) 841-2200

20 ALYSON OLIVER
KRESCH OLIVER, P.L.L.C.
21400 Southfield Road, Suite 305
Southfield, MI 48075
(248) 327-6556

23 BERNARD PERSKY
LABATON SUCHAROW
140 Broadway Avenue
New York, NY 10005
(212) 907-0700

1 Appearances:

2 For the WILLIAM V. REISS
3 End-Payor **LABATON SUCHAROW**
4 Plaintiffs: 140 Broadway Avenue
 New York, NY 10005
 (212) 907-0858

5 ADAM T. SCHNATZ
6 **THE MILLER LAW FIRM, P.C.**
7 950 West University Drive, Suite 300
 Rochester, MI 48307
 (248) 841-2200

8 ADAM J. ZAPALA
9 **COTCHETT, PITRE & MCCARTHY, L.L.P.**
10 840 Malcolm Road
 Burlingame, CA 94010
 (650) 697-6000

11 For the BRENDAN FREY
12 Dealership **MANTESE, HONIGMAN, ROSSMAN & WILLIAMSON,**
13 Plaintiffs: **P.C.**
 1361 East Big Beaver Road
 Troy, MI 48083
 (248) 457-9200

14 GERARD V. MANTESE
15 **MANTESE, HONIGMAN, ROSSMAN &**
16 **WILLIAMSON, P.C.**
17 1361 East Big Beaver Road
 Troy, MI 48083
 (248) 457-9200

18 SHAWN M. RAITER
19 **LARSON KING, L.L.P.**
20 30 East Seventh Street, Suite 2800
 Saint Paul, MN 55101
 (651) 312-6500

21 VICTORIA ROMANENKO
22 **CUNEO, GILBERT & LaDUCA, L.L.P.**
23 507 C Street NE
 Washington, D.C. 20002
 (202) 789-3960

24

25

1 Appearances:

2 For the BRIAN M. AKKASHIAN
3 Defendants: **PAESANO AKKASHIAN, P.C.**
4 132 North Old Woodward Avenue
5 Birmingham, MI 48009
6 (248) 792-6886
7 on behalf of JTekt

8 PETER E. BOIVIN
9 **HONIGMAN, MILLER, SCHWARTZ AND COHN,**
10 **L.L.P.**
11 660 Woodward Avenue, Suite 2290
12 Detroit, MI 48226
13 (313) 465-7396
14 on behalf of NKF Americas

15 STEVEN L. CROW
16 **SCHAEFFLER GROUP USA, INC.**
17 308 Springhill Farm Road
18 Fort Mill, SC 29715
19 (803) 548-8532
20 on behalf of Schaeffler Group USA

21 KENNETH R. DAVIS, II
22 **LANE POWELL, P.C.**
23 601 SW Second Avenue, Suite 2100
24 Portland, OR 97204
25 (503) 778-2100
on behalf of Furukawa Electric Company

DAVID P. DONOVAN
WILMER, CUTLER, PICKERING, HALE and
DORR, L.L.P.
1875 Pennsylvania Avenue NW
Washington, D.C. 20006
(202) 663-6868
on behalf of Denso Corporation

1 Appearances:

2 For the
3 Defendants:

PETER M. FALKENSTEIN
JAFFE, RAITT, HEUER & WEISS, P.C.
27777 Franklin Road, Suite 2500
Southfield, MI 48034
(248) 351-3000
on behalf of Kyungshin-Lear Sales and
Engineering

JAMES P. FEENEY
DYKEMA GOSSETT, P.L.L.C.
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304
(248) 203-0841
on behalf of TRW Holdings

MICHELLE K. FISCHER
JONES DAY
51 Louisiana Avenue NW
Washington, D.C. 20001
(202) 879-4645
on behalf of Yazaki North America,
Incorporated

ANDREW GALDES
LATHAM & WATKINS, L.L.P.
555 Eleventh Street NW, Suite 1000
Washington, D.C. 20004
(202) 637-2200
on behalf of Sumitomo Electric
Industries, Limited

LARRY S. GANGNES
LANE POWELL, P.C.
1420 Fifth Avenue, Suite 4100
Seattle, Washington 98101
(206) 223-7000
on behalf of Furukawa Electric Company

HOWARD B. IWREY
DYKEMA GOSSETT, P.L.L.C.
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304
(248) 203-0526
on behalf of Lear Corporation

1 Appearances:

2 For the SHELDON H. KLEIN
3 Defendants: **BUTZEL LONG, P.C.**
4 41000 Woodward Avenue
 Bloomfield Hills, MI 48304
 (248) 258-1414
 on behalf of Tokai Rika America (TRAM)

5
6 PETER KONTIO
 ALSTON & BIRD, L.L.P.
7 1201 West Peachtree Street
 Atlanta, GA 30309
 (404) 881-7000
8 on behalf of Autolive

9 JOHN M. MAJORAS
10 **JONES DAY**
 51 Louisiana Avenue NW
11 Washington, D.C. 20001
 (202) 879-3939
12 on behalf of Yazaki North America,
 Incorporated

13 WILLIAM A. SANKBEIL
14 **KERR, RUSSELL & WEBER, P.L.C.**
 500 Woodward Avenue, Suite 2500
15 Detroit, MI 48226
 (313) 961-0200
16 on behalf of Fujikura America,
 Incorporated

17 ROBERT J. WIERENGA
18 **SCHIFF HARDIN, L.L.P.**
 350 South Main Street, Suite 210
19 Ann Arbor, MI 48104
 (734) 222-1507
20 on behalf of TK Holdings, Inc.

21 STEPHANIE K. WOOD
 WILMER, CUTLER, PICKERING, HALE & DORR,
22 **L.L.P.**
 1875 Pennsylvania Avenue NW
23 Washington, D.C. 20006
 (202) 663-6099
24 on behalf of Denso International
 America

25

1 Detroit, Michigan

2 Friday, September 14, 2012

3 at about 10:01 a.m.

4

— — —

5 (Court and Counsel present.)

6 THE CASE MANAGER: All rise.

7 The United States District Court for the Eastern
8 District of Michigan is now in session, the Honorable
9 Marianne O. Battani is presiding.

10 All those having business before this Court, please
11 draw near and you shall be heard. God save these United
12 States and this Honorable Court.

13 You may be seated.

14 The Court calls the Automotive Parts Antitrust
15 Litigation.

16 THE COURT: Good morning.

17 ATTORNEYS: (Collectively) Good morning.

18 THE COURT: You know, the only time we get that
19 whole thing is when you're here.

20 Okay. Let's see. First of all, welcome. I didn't
21 know how many of you were going to come. I didn't know --
22 the defendants are in their usual place, right? These are --
23 okay, but I'm glad that you are all here because if there is
24 anything that we need on anything to discuss we can take care
25 of it.

1 The first item on the agenda I thought may have
2 caused a little bit of confusion, but we did just receive the
3 documents with the -- showing who was served in the wire
4 harness cases so that really is done.

5 The next issue is if somebody could fill me in
6 on -- I guess we could talk about fuel senders, heating
7 control panels and instrument panels at once.

8 MR. FINK: Your Honor, David Fink for the direct
9 purchaser plaintiffs.

10 Joe Kohn for the direct -- one of the co-leads will
11 speak to that.

12 THE COURT: Okay.

13 MR. KOHN: If it pleases the Court, Joseph Kohn
14 from Kohn, Swift & Graf for the direct purchasers.

15 With respect to the fuel senders, heater control
16 panels, instrument panel clusters, as to the direct purchaser
17 cases, maybe starting from D, instrument panel clusters, both
18 defendants -- all defendants in that case have been served or
19 accepted service.

20 With respect to the heater control panels, the
21 defendants have been served in the indirect cases as to all
22 the defendants, the U.S. and the foreign defendant. In the
23 direct purchaser case, the U.S. defendant, Denso
24 International America, Inc., has accepted service, and we
25 have undertaken the Hague service with respect to the foreign

1 entity.

2 We would, as I guess it was attributed to
3 Yogi Berra, whether he actually said it or not, déjà vu all
4 over again, but perhaps we could revisit an issue that we
5 talked about in the initial conference in wire harness that
6 whether given the fact that, A, the U.S. entity has been
7 served; B, the foreign entity has been served with one of the
8 underlying complaints, albeit in the indirect cases; C, the
9 Hague process is underway and will occur, whether we might be
10 able to persuade Denso to accept service for Denso Corp., the
11 foreign company.

12 Again, this is an issue that may arise also with
13 the later cases further down in the agenda where you will
14 have that situation where a complaint will be served, whether
15 by the direct purchasers or the indirect purchasers, on the
16 foreign entity through the Hague. Do we really need to go
17 through the exercise of having those multiple or seriatim
18 complaints served, so we would raise that as a topic of
19 discussion today.

20 At this point there is not a direct purchaser fuel
21 sender action.

22 THE COURT: Okay. Anybody else? Any comments
23 on --

24 MR. DAMRELL: Your Honor, Frank Damrell for the end
25 payors.

1 With respect to the instrument panel clusters case,
2 the heater control panels case and fuel senders, all
3 defendants have been served.

4 THE COURT: Okay. Wonderful.

5 MR. RAITER: Good morning, Your Honor.
6 Shawn Raiter from Larson King on behalf of the dealers.

7 With respect to the fuel senders, heater control
8 panels and instrument panel cluster cases, we have the
9 domestic corporations served and we have got Hague service
10 underway on the foreign defendants.

11 THE COURT: Okay. You want to talk, Mr. Kohn,
12 right now about whether we need to go through all of this
13 with the Hague for the others? I don't know, do we have any
14 of those defendants --

15 MR. KOHN: I think -- Your Honor, from our
16 perspective it was really just the Denso Corporation with
17 respect to the heater control panels. I do see some counsel
18 for some of the auto safety defendants here as well -- or
19 defendant.

20 Your Honor, I think given the -- I don't want to
21 repeat myself but I think the fact that a complaint has been
22 served pursuant to the Hague, there are other methods that
23 could be used as well, and we just think it is simply a
24 matter of timing and delay. That is an entity that is before
25 this Court with respect to other cases as well as the

1 government actions, and we would just urge --

2 THE COURT: It is Denso only?

3 MR. KOHN: Denso Corporation with the heater
4 control panels is the only one on the Roman numeral I.

5 THE COURT: Anyone here for Denso?

6 MR. DONOVAN: Yes, Your Honor.

7 THE COURT: Do you want to go to the microphone?

8 MR. DONOVAN: Dave Donovan from Wilmer, Cutler,
9 Pickering, Hale & Dorr on behalf of Denso.

10 Your Honor, I'm pinch hitting for my partner today.
11 I'm happy to raise this with our client. It seems to me
12 something that we certainly ought to raise with our client
13 and see if they are amenable to for the reasons that
14 plaintiffs' counsel has articulated.

15 THE COURT: All right. Let me give you some time
16 to raise it with your client. It seems perfectly reasonable.
17 I don't want to order this, if I even could order this, but
18 since your client certainly has notice of it and has the
19 other auto parts, why don't you deal with your client. Could
20 you send either a notice of accepting service or something
21 that you could file online so everybody would know that you
22 did it? Otherwise, would you send me a letter, copy to
23 appropriate counsel, so we can see how the delay is or if
24 there is some other way of doing this?

25 MR. DONOVAN: Certainly, Your Honor. We will keep

1 everybody apprised of -- we will certainly raise it and keep
2 everyone apprised of the decision.

3 THE COURT: Okay. Do you think you can do that in
4 seven days?

5 MR. DONOVAN: Certainly.

6 THE COURT: Let's make the deadline then one week
7 from today.

8 MR. DONOVAN: Okay. Thank you, Your Honor.

9 MR. RAITER: Your Honor, Shawn Raiter, again, on
10 behalf of the dealerships.

11 The same issue applies for us as to Yazaki. The
12 end payors apparently have accomplished service via the Hague
13 on the Yazaki foreign entity and so the same issue is
14 present. We have service out for Yazaki foreign in the other
15 cases, and we would ask that they too consider accepting
16 service on behalf of the foreign entity.

17 THE COURT: Do we have somebody here from Yazaki?

18 MS. FISCHER: Yes, Your Honor. Your Honor, I
19 understood the auto dealers to say that Hague service was
20 already underway; is that correct?

21 MR. RAITER: Yes, it is.

22 MS. FISCHER: If it is already underway then --
23 Michelle Fischer.

24 If it is already underway we would ask that the
25 process be completed; if it is not, we are happy to raise it

1 with our client, but it sounds like it is already in process.

2 THE COURT: All right. Well, then here is my
3 ignorance because in progress, what does that mean at the
4 Hague?

5 MR. RAITER: It means that it is -- again,
6 Shawn Raiter.

7 It means that the translated complaint has gone out
8 for service. The process though takes four to six months to
9 complete, and that's the problem. Are we going to sit around
10 and wait for something that is inevitable for a foreign
11 entity that has already been served and already before the
12 Court? That's our issue.

13 THE COURT: Let me do the same thing with you,
14 would you go back to your clients, please, and in seven days
15 let us know if they would accept service regardless of the
16 fact that it is already in the process in the Hague?

17 MS. FISHER: Yes, Your Honor.

18 THE COURT: Okay. Anybody else?

19 (No response.)

20 THE COURT: All right. Then we are onto item
21 number 2, which is the case management orders for the fuel
22 senders, heating control panels and instrument panel
23 clusters. Now, we have done this for the wire harness. I
24 want to know, can we follow that same template for these
25 other entities? Who is -- Mr. Fink, are you speaking for --

1 MR. FINK: Actually, I believe that Judge Damrell
2 is going -- Judge Damrell will speak to this.

3 THE COURT: Okay.

4 MR. FINK: And -- well, I won't hint at the answer.

5 THE COURT: Okay.

6 MR. DAMRELL: Your Honor, I think we have reached
7 agreement as to the contents of all of these orders, and as
8 recently as of this morning we reached a final agreement with
9 respect to the initial disclosure of the DOJ documents, that
10 was the only thing outstanding between the parties. Somebody
11 was going to mention that. Do you want to recite -- that is
12 the only thing outstanding. We have reached agreement as to
13 the contents of the discovery plan, the expert stipulation,
14 protective order, ASI stipulation and the dates for the
15 consolidated complaints.

16 THE COURT: Okay.

17 MR. DAMRELL: Those are all in agreement, and those
18 proposed orders will be submitted to you I presume Monday or
19 Tuesday, but there was one outstanding issue that relates to
20 the disclosure of DOJ documents that we had some differences
21 about but we resolved that this morning.

22 THE COURT: All right. Let me hear that. Thank
23 you, Judge -- oops, I shouldn't say that. Mr. Damrell.
24 Sorry.

25 MR. DONOVAN: Dave Donovan, again, on behalf of

1 Denso.

2 The agreement reached this morning, Your Honor, is
3 that the translated documents that were produced to the
4 Department of Justice regarding the product at issue in each
5 of these tracks would be produced by November 16th, and then
6 the remaining documents produced to the Department of Justice
7 regarding the products at issue in each track will be
8 produced between January 14th and April 15th, 2013. So it is
9 actually a little -- in fact, it is a lot quicker for
10 production of some of the documents and gives us a little
11 more room on the back end for the production of the rest.

12 THE COURT: Good.

13 MR. DONOVAN: And it is acceptable, I think, to
14 everybody.

15 MR. DAMRELL: I agree for the plaintiffs.

16 THE COURT: Everybody agree with this?

17 MR. FINK: Yes, Your Honor, for the direct
18 plaintiffs definitely.

19 And I should note because we didn't actually answer
20 the direct question the Court asked, yes, the proposed case
21 management order, which is just about done now, does follow
22 the template of the wire harness CMO.

23 THE COURT: Okay.

24 MR. RAITER: And that's also acceptable to the
25 dealers, Your Honor.

1 THE COURT: All right. Thank you. Wow, that was
2 easy.

3 Let me ask you though what these dates are. I'm
4 interested in the dates, the dates for the consolidated
5 amended complaint. Anybody have any idea what that is yet?

6 MR. FINK: Your Honor, Billy London has been
7 working on that with us, and he has dates. I could guess.

8 THE COURT: No, that's okay. Mr. London?

9 MR. LONDON: Yes. Good morning, Your Honor.

10 In the three different cases what we have done is
11 we have staggered them slightly so that --

12 THE COURT: Good.

13 MR. LONDON: -- the briefing on all of them for the
14 ease of the Court and the ease of the parties.

15 I believe the heating control panels will be filed
16 90 days after the entry of the CMO.

17 UNIDENTIFIED DEFENSE COUNSEL: That's instrument
18 panel clusters.

19 MR. LONDON: Oh, instrument panel clusters will be
20 90 days and the heating control panels will be 95 days.

21 THE COURT: Wait a minute. The panel clusters are
22 90 days?

23 MR. LONDON: Correct.

24 THE COURT: Okay.

25 MR. LONDON: The heating control panels will be

1 95 days, and I'm not 100 percent sure about fuel senders but
2 I thought it was 111 days.

3 THE COURT: Okay. That gives me an idea though,
4 close enough. You will put the exact dates in the --

5 MR. LONDON: Right. They will be in the orders
6 that will be submitted to Your Honor on Tuesday.

7 THE COURT: Okay. Very good. It is helpful to
8 have a little bit of a staggering anyway, one, because when
9 you get to file your 12(b) motions, as has been happening in
10 the wire harness cases, it just helps to have a few days. It
11 also helps us because of the law clerk situation.

12 I don't know if you know this, we had some
13 difficulty with getting another law clerk, we don't -- I was
14 not at this point allowed another law clerk. So I have the
15 luxury of being a senior status judge now, and so what I have
16 done is simply cut my caseload so that I could handle this.
17 So, I mean, I hope to be able to get back up but until
18 somebody finds some money in the budget to give us an extra
19 law clerk we are going to go along this way and hopefully be
20 able to handle it. I don't know yet how that's going to
21 work, but anyway that's not your problem, that's our problem,
22 but just to let you know I appreciate the staggering in that.

23 Okay. Does anybody else have any other comments?
24 Wait a minute. We have some motions -- what is 238? Oh,
25 agenda item 3. Okay. We are talking now about agenda item

1 number 3 on oral argument date. We had anticipated
2 December 5th or are suggesting December 5th.

3 By the way, I want to go back. That November 29th
4 date that you had suggested, that date, the November 29th
5 afternoon, I can still give you if you want a status
6 conference but we will talk about that later, but I thought
7 we needed two days -- two separate afternoons for the
8 arguments for no other reason than I like to be fresh so that
9 I'm not so tired at the end that I don't want to listen to
10 whatever that last argument is. That's a personal thing, but
11 I did it two afternoons so that if some of you are here from
12 out of town hopefully that would be easier for you. If
13 that's a problem I want to know about this now so if you want
14 a week in between or something just let me know this, but
15 right now we have picked December 5th and December 6th.

16 Now, I understand that one of the motions -- oh, it
17 is not even listed on here, has been withdrawn. And 358 --
18 358, I'm not sure who that -- what motion that is? You need
19 a new briefing schedule. Thank you. Yazaki's motion to
20 dismiss.

21 MS. FISHER: Your Honor, that merely joined in the
22 existing motion to dismiss, we don't need a new briefing
23 schedule, we adopted all of the --

24 THE COURT: You are just joining in?

25 MS. FISHER: Yes. Yazaki Corporation had not been

1 served by the auto dealers, once service was effected we just
2 joined in the existing briefing.

3 THE COURT: All right. Thank you very much.

4 The other thing is that these motions now I have
5 changed to the morning, 10:00, in case we need more time on
6 them. Okay. Anybody have any problem or is that acceptable?
7 I'm assuming you have been able to check your calendar by
8 now. Everybody is okay with that?

9 (No response.)

10 THE COURT: Okay. We'll schedule those two dates,
11 and we will keep our fingers crossed that we won't have any
12 snow days or anything like that to interfere with this.

13 All right. The next item really is probably very
14 confusing to you and it is because we had -- this is
15 objection cutoff dates on the occupant safety restraint
16 system and bearings, there was a little mix up here.
17 Remember we had talked before at the last meeting, I think
18 these are going to be right in with our same counsel unless
19 there were some objections. That final order which the Court
20 entered allowed for a period of objection, and we weren't
21 sure that that date was passed but I do think now that that
22 date is passed.

23 So as to the occupant safety restraint system and
24 bearings, what's going on at this point with those two areas?
25 Who is going to speak to that?

1 MR. FINK: Steve Kanner will speak to that, Your
2 Honor, for the direct purchaser plaintiffs.

3 THE COURT: Mr. Kanner?

4 MR. KANNER: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. KANNER: Steve Kanner on behalf of direct
7 purchaser plaintiffs.

8 What is going on, I'm happy to report, is nothing.

9 THE COURT: Good.

10 MR. KANNER: And by that, not to be cute, there
11 have been no objections. Our collective ears are to the
12 ground. No counsel has indicated any objections to us. We
13 know of no other actions. As far -- certainly as far as
14 bearings I think we are in good shape, all the parties that
15 are now in bearings have agreed to the arrangements, and
16 certainly that would hold true for all of the parties who
17 have filed in the safety occupant system cases.

18 THE COURT: And how about service in those cases?

19 MR. KANNER: Service is underway. As you heard
20 earlier, the Hague system, while effective, is
21 extraordinarily time consuming. I'm aware of Hague service
22 that went ten months to a year.

23 THE COURT: Wow.

24 MR. KANNER: So --

25 THE COURT: These are all new defendants so we

1 can't --

2 MR. KANNER: They are, they are. So we are -- we
3 are exploring the best ways to accomplish service expediently
4 and within the terms of the Sixth Circuit, and we will
5 explore every opportunity.

6 THE COURT: Okay.

7 MR. KANNER: Thank you very much, Your Honor.

8 THE COURT: Okay.

9 MR. DAMRELL: Your Honor, as to the end payors, we
10 have accomplished service with a number of defendants, and we
11 expect to have service as to all defendants by the date of --
12 is the hearing going to be on the 29th of November?

13 THE COURT: We'll talk about that in just a minute.

14 MR. DAMRELL: If it is around that date we will
15 assume it will be completed by the end of November, all
16 service.

17 THE COURT: Good. So at that point we would be
18 ready to look at all the same issues again?

19 MR. DAMRELL: We'll be back doing the same thing
20 with those defendants, yes.

21 THE COURT: Okay.

22 MR. RAITER: Shawn Raiter, again, on behalf of the
23 dealers.

24 We have domestic service on the occupant safety
25 systems and the bearings, foreign service is underway as

1 well, and we too have not heard any objection to the
2 appointment of our group as dealer interim lead counsel, and
3 all agree to the structure that we have in place for the
4 other cases as well.

5 THE COURT: Okay. Can I ask a question just out of
6 curiosity? When you go to the Hague, do you have an attorney
7 there that you retain or do one of you take a trip?

8 MR. KOHN: Your Honor, if I may? Joseph Kohn,
9 again.

10 There are commercial services that --

11 THE COURT: That do that?

12 MR. KOHN: -- do the work, and it is different
13 procedures in different countries and they have to go through
14 sometimes the counsel at the embassies, that sort of thing.

15 THE COURT: Interesting.

16 MR. KOHN: While we are on this topic, as to the
17 direct purchasers and occupant safety restraints, also the
18 domestic U.S. company one defendant, AutoLive, has been
19 served or has accepted service. And if we could make the
20 same request of the counsel, I do notice our colleagues on
21 the defense for AutoLive are in court. They have been served
22 in the foreign defendants with the indirect -- at least one
23 of the indirect cases. If we could make the same request,
24 would they again reconsider accepting for their foreign
25 entities? We have made the request, and we have served the

1 domestic American corporations.

2 THE COURT: Are you here?

3 MR. SANKBEIL: William Sankbeil for AutoLive.

4 We would consider and speak to the client about
5 it.

6 THE COURT: All right.

7 MR. SANKBEIL: I assume you will implement the same
8 procedure that you talked of before?

9 THE COURT: Absolutely. Very good. I appreciate
10 that cooperation. It just makes sense that we don't fool
11 around with the service issue when people are already served
12 with part of this.

13 Okay. I'm going to dare to ask this question, I
14 have not myself heard of the status of further investigation
15 regarding different parts, but I'm assuming that if that is
16 going on you have heard of that. Is there something coming
17 down or are we pretty well set? Does anybody know, or if you
18 can say? I don't know.

19 MR. HANSEL: May it please the Court, good morning,
20 Your Honor. Greg Hansel for the direct purchaser plaintiffs.

21 We are aware of numerous other products that are
22 under investigation from such sources as news reports, 10-K
23 filings by publicly-traded companies, statements made by
24 different governmental authorities in Japan, the United
25 States, Europe and Canada, and we are closely monitoring all

1 of those developments.

2 As the Court observed in the last hearing, there
3 are 14,000 parts in a car and we do not believe it will reach
4 that level.

5 THE COURT: Okay.

6 MR. HANSEL: But even though we expect there to be
7 more cases coming down the pike, there is a bona fide
8 question for the plaintiffs, without going into too much, you
9 know, work product or strategy, there is a bona fide question
10 about when it is appropriate to file a case. And, of course,
11 we don't want to bring a case unless we feel that it meets a
12 standard of factual and legal development that is
13 appropriate. That's a little vague. If there is any more
14 particular question I will be happy to address it, Your
15 Honor.

16 THE COURT: No, no, because I had heard the
17 investigation was ongoing but really to be honest I did not
18 know if there were -- how many other parts, what parts, but I
19 appreciate what you are saying that there probably will be a
20 few more parts before we are done with this. Okay.

21 MR. HANSEL: Thank you.

22 THE COURT: I look at it because looking ahead to
23 try to reach a resolution of this matter, which is hard for
24 me to fathom except that, you know, it is a car so we have to
25 have everything there. I can't see that we are going to be

1 settling with one part and not other parts. I see this as
2 some kind of global settlement. I mean, we could do it
3 separately but I would like to see this in the end with one
4 settlement, so, anyway, that's for the future. All right. I
5 appreciate that so at least we have everything in line.

6 And as you may have seen we have our new protocol
7 in order. I appreciate your working. We have changed some
8 of the wording just so we could understand it even though I
9 still need the order right in front of me before I look at
10 anything, but we haven't yet transferred some of the items in
11 the 2311 docket to their separate parts, that will be coming
12 up soon, but I think that with that protocol with the orders
13 that will be entered that follow the wire harness I think we
14 have a real sound basis for running this and hopefully make
15 it easier for all of you because of the work that you have to
16 do.

17 Okay. Next I would like to talk about that status
18 conference date because the status conference date, the
19 November 29th date I'm talking about, is the week before the
20 motion date. Now, I'm not looking to bring you all together
21 just so you -- I mean, I'm sure it is not that you want a
22 trip to Detroit in November or December, so is there
23 something that we need to accomplish by meeting on the 29th
24 or could we, in fact, do a status conference which would
25 basically probably be on the last two, the safety and the

1 bearings, on say the morning of December 5th before we begin
2 the motions? I would like you to consider what would be
3 easiest for you. All dates are available. What is easier
4 for you in terms of coming in here? Judge?

5 MR. DAMRELL: Your Honor, as to the end payors, we
6 can certainly hold that conference in the morning. You
7 suggested the morning of the 5th?

8 THE COURT: Yes. I just thought we could do it the
9 first thing.

10 MR. DAMRELL: I think that would work for the end
11 payors, yes, I think that would be acceptable.

12 MR. MAJORAS: Your Honor, John Majoras for the
13 Yazaki defendants.

14 In a quick poll of nodding heads I believe the
15 defendants all agree that we could have the status conference
16 on the 5th as well.

17 THE COURT: Okay.

18 MR. SANKBEIL: William Sankbeil, Your Honor.

19 As I recall, Mr. Iwrey had surveyed when we picked
20 the 29th amongst the bearing defendants and the OSS
21 defendants. I don't think we could say whether all of the
22 defense counsel in those two cases can be available the 5th
23 without checking with them. We could do that and get back to
24 the Court and plaintiffs' counsel, but I think to set it
25 without talking to everybody might be a bit precipitous.

1 THE COURT: Okay.

2 MR. SANKBEIL: The 29th was cleared, Your Honor, so
3 we knew that.

4 THE COURT: All right. If, in fact, it is going as
5 it is going today, which is in truly a spirit of cooperation
6 with things being done, I don't want you to come out for no
7 reason. So maybe if you can't all make it on the 29th you
8 could agree that some people, you know, could represent you
9 and, of course, we would do it on the record so you would
10 have a record but, again, I don't care. I will leave the
11 29th open, and you can let me know if you would like the
12 conference on the 29th.

13 MR. FINK: Your Honor, the direct purchaser
14 plaintiffs agree with as stated by Mr. Sankbeil. The issue
15 is there are missing defendants here right now --

16 THE COURT: Right.

17 MR. FINK: -- so we can't speak for them.

18 THE COURT: I understand that.

19 MR. FINK: If they want to do the 29th we will do
20 it on the 29th; if they don't, we all appreciate the
21 possibility of doing it on the morning of the 5th.

22 THE COURT: Okay.

23 MR. SANKBEIL: If I heard you correctly, Your
24 Honor, you contemplated doing the status conference as the
25 first thing on the 5th?

1 THE COURT: Yes, right.

2 MR. SANKBEIL: So we can tell the plaintiffs.

3 THE COURT: I'm looking now and this has been a
4 half hour and I think we are coming right up to the end, so
5 we can do it right in the beginning.

6 MR. SANKBEIL: You are being an optimist, Your
7 Honor.

8 THE COURT: I like optimism. Okay. So I'm just
9 going to kind of hold that and you will let me know. I know
10 Mr. Iwrey called before, or Mr. Fink, either one of you local
11 counsel can just let me know what is happening.

12 Okay. Is there anything else? Anything else?

13 (No response.)

14 THE COURT: Nothing else? Can we do something?

15 MR. FINK: Your Honor, the folks at the Westin Book
16 Cadillac asked me to extend their gratitude to the Court, and
17 they would like to see the status conference held on a
18 different day.

19 THE COURT: Yeah, I bet they would. Well, we are
20 going over as a matter of fact to the Westin Book Cadillac
21 for a Federal Bar Association luncheon, and I'm sure the
22 local Federal Bar would be glad to entertain any of our
23 foreign guests, so if you are free for lunch please come over
24 to the Book Cadillac for the annual State of the Court
25 Address. All right.

1 MR. SANKBEIL: Free for lunch or a free lunch?

2 THE COURT: Free for lunch.

3 MR. SANKBEIL: That may affect the attendance, Your
4 Honor.

5 THE COURT: You're right, it certainly would.

6 Okay. I thank you all for coming in. We will see you either
7 on the 29th or the 5th.

8 THE CASE MANAGER: All rise. Court is adjourned.

9 (Proceedings concluded at 10:30 a.m.)

10 — — —

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, Robert L. Smith, Official Court Reporter of
the United States District Court, Eastern District of
Michigan, appointed pursuant to the provisions of Title 28,
United States Code, Section 753, do hereby certify that the
foregoing pages comprise a full, true and correct transcript
taken in the matter of In Re: Automotive Parts Antitrust
Litigation, Case No. 12-02311, on Friday, September 14, 2012.

s/Robert L. Smith
Robert L. Smith, RPR, CSR 5098
Federal Official Court Reporter
United States District Court
Eastern District of Michigan

Date: 09/17/2012
Detroit, Michigan